

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

EL SEGUNDO UNIFIED SCHOOL  
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2011040143

ORDER DENYING REQUEST FOR  
CONTINUANCE

On May 20, 2011, Student filed a Motion to Continue the prehearing conference and hearing dates on the following grounds: no resolution session had been held; a mediation had not been held; an IEP team meeting was scheduled for May 23, 2011; a settlement proposal was circulating; and Student's counsel had inadequate time to prepare for hearing because she had been retained on May 12, 2011. On May 25, 2011, District opposed the request.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) In ruling upon a motion for continuance, the Office of Administrative Hearings (OAH) is guided by the provisions found within the Administrative Procedure Act and the California Rules of Court that concern motions to continue. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.) Generally, continuances of matters are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

OAH has reviewed the request for good cause and the request is denied. District correctly points out in its opposition that a resolution session is not required for a district-filed matter and that it cannot be compelled to participate in mediation, which is voluntary. To the extent an IEP team meeting is scheduled for prior to hearing, any such meeting does not directly resolve the issues raised by District's complaint, i.e., the propriety of its behavioral services offer in the past.

Finally, to the extent Student contends counsel will not have adequate time to prepare, more than three weeks will have elapsed between the time Student's counsel accepted the representation and the time of hearing. IDEA's presumptive 45-day timeline from the filing of a due process request to issuance of a decision contemplates that preparation time of three weeks is adequate, particularly when Student does not have the burden of persuasion at hearing and District's issue is limited. OAH further notes that on April 21, 2011, OAH granted the parties' joint request to continue this matter, setting the current dates. Counsel

for Student presumably accepted representation with knowledge of these dates. Accordingly, Student's motion is denied.

IT IS SO ORDERED.

Dated: May 25, 2011

/s/

---

BOB N. VARMA  
Administrative Law Judge  
Office of Administrative Hearings